

STATE OF VERMONT  
PUBLIC SERVICE BOARD

CPG #NM-1507

Application of Steven and Nancy Davis for a                    )  
certificate of public good for an interconnected net-        )  
metered photovoltaic electrical power system                )

Order entered: 12/1/2011

**I. INTRODUCTION**

This case involves an application filed by Steven and Nancy Davis ("Applicants"), on June 24, 2011,<sup>1</sup> requesting a certificate of public good ("CPG"), pursuant to 30 V.S.A. §§ 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100, for a photovoltaic net metering system.

Notice of the application has been sent to all parties as specified in the Board's Rule 5.100. The notice stated that any party wishing to submit comments or request a hearing in this matter needed to file comments with the Board within thirty (30) days of the date that the notice of the application was sent.

On June 23, 2011, adjoining landowners Neil and Lenore Krolick filed comments on the proposed project.

On July 5, 2011, Lee Gustafson of Net Zero Renewable Resources, LLC, the project installer, filed additional information on the project.

On July 20, 2011, the Krolicks filed additional comments on the project.

On August 30, 2011, the Applicants filed a response to the Krolicks' comments.

On September 8 and 14, 2011, the Krolicks filed additional comments on the project.

On September 19, 2011, the Applicants filed additional information on the project.

No comments have been received from any other parties or interested persons.

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1. An incomplete application was filed on June 1, 2011.

The Board has reviewed the application and accompanying documents and agrees that, pursuant to 30 V.S.A. §§ 219a and 248 and the Board's Rule 5.100, a CPG should be issued without further investigation or hearing.

## **II. FINDINGS**

Based upon the application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed net metering project will be on property owned by the Nancy M. Davis Family Trust and located at 1162 Lovers Lane in Chester, Vermont. Application at Section 1.
2. The proposed net metering facility is to be erected on a new structure. Application at Section 4.
3. The proposed project consists of a photovoltaic electrical generation system with a system-rated output of 3.8 kW AC. The system will be approximately 12 feet in height and 26 feet in width. The facility will be interconnected with the Central Vermont Public Service Corporation electrical distribution system. Application at Section 4 and attachment.
4. Applicants have certified that the project is in compliance with all of the provisions of Sections 3 and 9 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Sections 3 and 9.
5. Applicants have certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

## **III. POSITIONS OF THE PARTIES**

The Krolicks' principal concern is the proposed placement of the photovoltaic system. The Krolicks state that the proposed project will be in direct view from both their house and their building lot, which is currently listed for sale. The Krolicks assert that due to these direct views that the project will have an adverse affect on the aesthetic pleasure, scenic and natural beauty, and value of their primary home. The Krolicks request that the Applicants either move the project out of their view or provide adequate screening. The Krolicks have also requested that the Board conduct a hearing in this matter.

The Applicants state that in an attempt to address the Krolick's concerns, the proposed location of the project has been moved closer to the Applicants' house. The Applicants state that over the past three years 26 trees and shrubs have been planted in the open meadow that separates the Applicants' and Krolicks' lots. The Applicants have moved two 12-foot sugar maples and planted four 6-foot balsam fir trees in an attempt to provide additional screening for the Krolicks. The Applicants state that an alternate location for the project, behind the Applicants' barn as suggested by the Krolicks, is neither technically nor economically feasible. Finally, the Applicants assert that because the project will be no taller than their roof line, and because the back of the project will face the Krolicks' residence, thus avoiding reflection and glare, the project will not represent a significant degradation of the Krolicks' current view.

#### **IV. DISCUSSION AND CONCLUSION**

The Board has received comments from the Krolicks, neighboring landowners of the Applicants, regarding the aesthetic impacts of the proposed project on their property. Board Rule 5.109(A) provides that the Board may hold a hearing for a net metering system when it determines that the system raises a substantive issue with respect to one or more of the criteria of 30 V.S.A. § 248. Pursuant to the Board's Order of April 19, 1999, in PSB Docket No. 6181, *"Investigation into the Use of a Net Metering System for the Purchase and Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies,"* parties with objections or concerns must make a showing that the application raises a significant issue with respect to one or more substantive criteria applicable to the proposed net metering system. Accordingly, the Net Metering Application Form states that persons requesting a hearing regarding a net metering project "must make a showing that the application raises a significant issue regarding one or more of the substantive criteria applicable to the proposed net metering system."<sup>2</sup>

Pursuant to 3 V.S.A. § 811, the Board has read the record, including correspondence from the parties, and we conclude that the Krolicks have not shown that the project raises a significant issue with respect to the applicable criteria.

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2. State of Vermont Public Service Board Application for a Certificate of Public Good for Interconnected Net Metered Power Systems, at 1. As noted above, the adjoining landowners and other entities specified in Board Rule 5.100 received a copy of the application form for the project before us.

The Board's net-metering rule sets forth the following analytical process for determining whether a project will have an undue adverse impact on aesthetics and scenic or natural beauty:

**5.108 Aesthetic Evaluation of Net Metered Projects**

(A) The Board has adopted the Vermont Environmental Board's Quechee analysis for guidance in assessing the aesthetic impacts of net metered projects, including wind turbines. In determining whether a project raises a significant issue with respect to aesthetic criteria contained in 30 V.S.A. 248(b)(5), the Board is guided by the two-part test outlined below:

1. First a determination must be made as to whether a project will have an adverse impact on aesthetics and the scenic and natural beauty. In order to find that it will have an adverse impact, a project must be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.
2. The next step in the two-part test, once a conclusion as to the adverse effect of the project has been reached, is to determine whether the adverse effect of the project is "undue." The adverse effect is considered undue when a positive finding is reached regarding any one of the following factors:
  - a. Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area?
  - b. Have the applicants failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings?
  - c. Does the project offend the sensibilities of the average person? Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?
3. Analysis of whether a particular project will have an "undue" adverse effect on aesthetics and scenic or natural beauty is also significantly informed by the overall societal benefits of the project.

In addition to the Quechee analysis, the Board's consideration of aesthetics under Section 248 is "significantly informed by overall societal benefits of the project."<sup>3</sup>

The proposed pole-mounted project, at approximately 12 feet in height and 26 feet in width, will be smaller than the Applicants' house, and no higher than the Applicants' roof line. While the proposed project may be visible from the Krolicks' residence and building lot, it will be located more than 120 feet from the property line and 570 feet from the Krolicks' residence. Views of the project will be at least partially blocked by the recently planted vegetation, and

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3. *In Re: Northern Loop Project*, Docket 6792, Order of 7/17/03 at 28 ("Northern Loop").

these views will be reduced as the vegetation matures. In addition, because any views of the project from the Krolicks' property will be of the back of the project, solar reflection and glare should not be an issue. Thus, we conclude that the Krolicks have not shown that the project is out of character with its surroundings and, consequently, have not shown that the project raises a significant issue with respect to adverse aesthetic impacts.<sup>4</sup>

Consequently, because we find that the Krolicks have not shown that the project raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, further proceedings, including hearings, in this matter are unnecessary.

Based upon the findings and evidence, the proposed net metering project will be in compliance with the requirements of the Board's Order in Docket No. 6181 and Rule 5.100, the application does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, and the proposed project will promote the general good of the state.

#### **V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the proposed photovoltaic net metering system, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

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4. Because the comments have not shown that the project raises a significant issue under the first step of the Quechee analysis, there is no need to continue to the second prong of the analysis that would have examined possible mitigation measures including alternative locations for siting the project.

DATED at Montpelier, Vermont, this 1st day of December, 2011.

s/James Volz )

) PUBLIC SERVICE

s/David C. Coen )

) BOARD

s/John D. Burke )

) OF VERMONT

OFFICE OF THE CLERK

Filed: December 1, 2011

Attest: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*